

OFFICIAL COPY

Fresno, California

February 11, 2003

The City Council met in regular session at the hour of 8:34 a.m. in the Council Chambers, City Hall, on the day above written.

Present:	Brian Calhoun	Councilmember
	Brad Castillo	Acting Council President
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Councilmember
	Cynthia Sterling	Councilmember
	Tom Boyajian	Council President

Dan Hobbs, City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Pastor Mike Burton, Northeast Assembly Church, gave the invocation, and City Clerk Klisch led the Pledge of Allegiance to the Flag.

RESOLUTION OF COMMENDATION TO ERNEST VALDEZ

PROCLAMATION OF OUR HEART IS WITH THE TROOPS DAY - COUNCILMEMBER DAGES

CERTIFICATES OF RECOGNITION TO DISTRICT 4 STUDENTS - ACTING PRESIDENT CASTILLO

The above resolution, proclamation, and certificates were read and presented.

PROCLAMATION OF SPENCER KENDIG DAY - COUNCILMEMBER STERLING

Not resented.

APPROVE MINUTES OF FEBRUARY 4, 2003

On motion of Acting President Castillo, seconded by Councilmember Dages, duly carried, RESOLVED, the minutes of February 4, 2003, approved, as amended, on Page 141-58, Item 10:00 A.M., adding the underlined italicized language in the 1st paragraph as follows: "Councilmember Calhoun *stated he requested and received Council approval for "cz" zoning to require the site plan to be brought back to the Planning Commission and/or City Council for final approval and also for noticing and meeting with the neighbors, and added...*the zoning would be looked at closely...".

APPROVE AGENDA:

(5-A) DISCUSSION REGARDING THE APPOINTMENT PROCESS FOR THE MAYOR'S TASK FORCE TO REVIEW THE ARCHIE CRIPPEN EXCAVATION FIRE - COUNCILMEMBER CALHOUN

Sterling and Deputy Mayor Montero clarifying they would be leading the task force, and stated he still had some concerns but as long as the city attorney was comfortable with the process he would remove the item from the agenda. Councilmember Sterling stated she appreciated hearing about concerns or receiving advice and spoke briefly to the task force working out issues to insure a fire like this does not happen again.

On motion of Acting President Castillo, seconded by Councilmember Dages, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

ADOPT CONSENT CALENDAR:

(1-A) CONSIDER THE PROPOSED ALLUVIAL-WILLOW NO. 4E REORGANIZATION CONSISTING OF 36 ACRES PROPOSED FOR DETACHMENT FROM THE FRESNO COUNTY FIRE PROTECTION DISTRICT AND THE KINGS RIVER CONSERVATION DISTRICT AND ANNEXATION OF THE TERRITORY TO THE CITY OF FRESNO (LOCATED IN COUNCIL DISTRICT 6)

1. ADOPT THE FINDING OF THE MITIGATED NEGATIVE DECLARATION DATED APRIL 19, 2002, FOR ENVIRONMENTAL ASSESSMENT NO. A-02-03, R-02-03, TT-5067 THAT THE REORGANIZATION WILL NOT HAVE A SIGNIFICANT ADVERSE EFFECT UPON THE ENVIRONMENT

2. * **RESOLUTION NO. 2003-34** - APPLYING TO LAFCO IN THE MATTER OF THE PROPOSED ALLUVIAL-WILLOW NO. 4A REORGANIZATION

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled **Consent Item 1-A** hereby adopted, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling
Noes	:	Boyajian
Absent	:	None

(1-B) * RESOLUTION NO. 2003-35 - 9th AMENDMENT TO SALARY RES. 2002-219 MODIFYING SECTION 13 OF NARRATIVE, "STIPENDS FOR BOARD AND COMMISSION MEMBERS", PROVIDING FOR THE CONTINUED PAYMENT OF \$25 PER MEETING TO CIVIL SERVICE BOARD MEMBERS, BUT REMOVING THE LIMITATION OF 24 MEETINGS PER FISCAL YEAR

(1-C) ADOPT THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF FRESNO AND THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS (IBEW/UNIT 7), COVERING THE PERIOD JULY 1, 2001, THROUGH JUNE 30, 2004

1. * **RESOLUTION NO. 2003-36** - 10TH AMENDMENT TO SALARY RES. 2002-219 REFLECTING THE ADOPTION OF A SUCCESSOR LABOR AGREEMENT BETWEEN THE CITY AND IBEW/UNIT 7

(1-D) AUTHORIZE STAFF TO NEGOTIATE AND ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH BOYLE ENGINEERING CORPORATION FOR AN AMOUNT NOT TO EXCEED \$105,000 FOR A VULNERABILITY ASSESSMENT OF WATER DIVISION FACILITIES, SUBJECT TO APPROVAL AS TO FORM BY THE CITY ATTORNEY, AND AUTHORIZE THE CITY MANAGER OR DESIGNEE TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

(1-E) RESOLUTION NO 2003-37 - INTENT TO ANNEX FINAL TRACT NO. 5071 TO CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 44 AND SUPERCEDING RESOLUTION NO. 2002-410, AND SETTING THE PUBLIC HEARING FOR MARCH 18, 2003, AT 11:00 A.M.

(1-F) RESOLUTION NO. 2003-38 - INTENT TO ANNEX FINAL TRACT NOS. 5117 AND 5121 TO CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 45, AND SETTING THE PUBLIC HEARING FOR MARCH 18, 2003, AT 10:45 A.M.

(1-G) APPROVE EXTENSION NO. 2 TO THE TEMPORARY USE PERMIT ISSUED BY THE CITY TO FACILITY SERVICES AND SYSTEMS (PROVIDER OF SKY CAP SERVICES) TO OCCUPY PREMISES AT THE FRESNO YOSEMITE INTERNATIONAL AIRPORT FOR AN ADDITIONAL ONE-YEAR PERIOD, AND AUTHORIZE THE DIRECTOR OF TRANSPORTATION TO EXECUTE ALL NECESSARY DOCUMENTS ON BEHALF OF THE CITY

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling
Noes	:	Boyajian
Absent	:	None

(8:30 A.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

The City Council recessed and convened in joint session with the Redevelopment Agency at the hour of 8:59 a.m. Acting President Castillo briefly left the meeting.

APPROVE AGENCY MINUTES OF FEBRUARY 4, 2003

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the Agency minutes of February 4, 2003, approved as submitted.

(“A”) JOINT RESOLUTION NO. 2003-39 / 1617 - DESIGNATING POSITIONS WHICH SHALL BE SUBJECT TO THE CONFLICT OF INTEREST CODE AND DEFINING CATEGORIES OF DISCLOSURE FOR SUCH POSITIONS

City Clerk Klisch advised amended Exhibits B, J, L, N, Q and R adding six additional positions had been distributed and upon Chair Duncan’s request gave a synopsis of the issue and advised this was a requirement of the State Political Reform Act.

Barbara Hunt, 2475 S. Walnut, spoke to the issue.

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled joint Resolution No. 2003-39/1617 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Duncan
Noes	:	None
Absent	:	Castillo

(“B”) CONSIDER APPROVAL OF THE ANNUAL REPORT OF THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO FOR FISCAL YEAR 2001-2002 (COUNCIL ACTION)

Director Fitzpatrick gave a brief overview of the issue, advised state law required the filing of the report, and reviewed the material before Council.

Barbara Hunt, 2475 S. Walnut, spoke to the issue. Acting President Castillo returned at 9:07 a.m.

Extensive discussion ensued with Mr. Fitzpatrick, an auditor from Macias, Gini & Company, and City Attorney Montoy clarifying issues and/or responding to questions/comments of Councilmember Calhoun, Acting President Castillo and President Boyajian relative to lack of auditor opinions on the financial statements, why the auditors did not comment on the management letter, if the audit met all standards, concern with lack of recommendations at the conclusion of the audit, what the auditors responsibilities were, prior request for list of all consultants used by the Agency and it being made part of the report, suggestion to delay approval one week for further review and receipt of list of consultants **(2 - 0)**, timeline on the 99 corridor, if other redevelopment areas were being looked at, goals and if funds were available for mall businesses for facade improvements, if the Gap/FAA issue could be discussed this date, projections on future tax increment, specifics of the Roeding Business Park, and completion date for the 180 west project. Councilmember Calhoun stated he wanted the auditors to look at the management letter/Pages 3-9 and made a motion to delay the issue to March 4th. Acting President Castillo reiterated his request for a list of all consultants used by the Agency and cost.

On motion of Councilmember Calhoun, seconded by Acting President Castillo, duly carried, RESOLVED, the above entitled Item **"B"** continued to March 4, 2003 by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Dages, Perea, Sterling, Duncan
Noes	:	None
Absent	:	None

The joint bodies adjourned their meeting at 9:40 a.m. and the City Council reconvened in regular session.

(3-A) RESOLUTION NO. 2003-40 - SETTING THE TIME AND PLACE FOR THE PUBLIC HEARING TO CONSIDER THE FORMATION OF UNDERGROUND UTILITY DISTRICT (UUD) NO. FRE-82, BARTON AVENUE BETWEEN DAKOTA AND HAMPTON WAY

Assistant Public Works Director Kirn gave a brief overview of the issue as contained in the staff report as submitted, and along with Assistant Manager Souza responded to questions of President Boyajian and Councilmember Calhoun and/or clarified issues relative to whether there were any time constraints, purpose of a hearing, if the formation of this UUD would affect other high priority projects, i.e. Blackstone Avenue, and concern and request for assurance the Blackstone project will be treated fairly.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2003-40 hereby adopted, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

(9:45 A.M.) RESOLUTION NO. 2003-41 - CONTINUING RES. 2003-20 PROCLAIMING A LOCAL EMERGENCY RELATING TO THE FIRE BURNING AT ARCHIE CRIPPEN EXCAVATION IN THE VICINITY OF MARKS AND NEILSEN AVENUES

Interim Fire Chief Aranaz advised as of yesterday the fire was out, and gave an update on the issue including boiler tanks that were found at the site, displaying photographs to illustrate. City Manager Hobbs responded briefly to questions of President Boyajian and/or clarified issues relative to purpose of the resolution, extension term, and need for official record for state and federal cost coverage.

Barbara Hunt, 2475 S. Walnut, spoke to the issue and expressed concern with the time it took to extinguish the fire.

Upon question of Councilmember Calhoun, City Attorney Montoy clarified the resolution was necessary as the site itself and ongoing activity still constituted an emergency for health and safety.

On motion of Councilmember Duncan, seconded by Acting President Castillo, duly carried, RESOLVED, the above entitled Resolution No. 2003-41 hereby adopted, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

(5-B) DIRECT THE CITY MANAGER TO LOOK INTO FUNDING SOURCE AND REHABILITATION OF THE FRESNO CONVENTION CENTER AND SELLAND ARENA

1. STATUS REPORT ON CONVENTION CENTER JOINT POWERS AUTHORITY (JPA)

Reviewed by President Boyajian who spoke to the need to improve the old facilities to compete; noted the issue was brought forth before so this was nothing new; and stated his intent was to have staff look into rehabbing the facilities and bring back alternatives, including costs. City Manager Hobbs and Assistant City Manager Souza gave a status report on the issue including best strategy and the RFP for operation of the Selland, and concurred an aggressive approach needed to be taken.

Barbara Hunt, 2475 S. Walnut, spoke to the need for City ownership of the facilities.

Lengthy discussion ensued. Councilmember Calhoun stated everyone shared President Boyajian's interest but he felt the proposed direction would tell staff to do something they were already doing and requested staff be allowed to report back when they were ready. Councilmember Duncan concurred stating staff was on a good track with the Selland Arena and marketing. Councilmember Sterling stated major development was going on downtown which should generate revenues to direct to the convention center, **(3 - 0)** and spoke to how the original focus of the convention center was conventions and it was now changing to entertainment. Councilmember Perea stated his support for President Boyajian's request and questioned the status of a Convention Center JPA, with Mr. Souza and Mr. Hobbs responding. Mr. Hobbs stated the objective of a JPA and where Council wanted to go needed to be discussed. President Boyajian reiterated and stressed funding alternatives, such as refinancing bonds, needed to be brought to Council so Council could decide how important upgrading the facilities was to them adding if a decision was made after reviewing alternatives to not do anything, "so be it". Acting President Castillo expressed his concern with the issue stating staff knew for years the Save Mart Arena was coming and he could not believe privatization was being suggested as an option and elaborated. Councilmember Sterling spoke to the need for the City to take ownership of its facilities and have people buy back into it; stated for every event at the Save Mart Arena there would be someone who wanted to be part of the Convention Center; stressed the Save Mart Arena did not take away the focus of what was needed for downtown; and spoke to the need to be creative and aggressive with financing options to make Selland Arena come back to where it used to be adding there were other revenue areas to look at besides privatization. President Boyajian stated his direction was not made to have an argument on privatization emphasizing he wanted alternatives. Mr. Hobbs stated erroneous statements were made by Acting President Castillo relative to the Save Mart Arena and the privatization issue and explained, brief discussion ensued, and President Boyajian stated discussion was moving off the topic. Acting President Castillo responded briefly to questions of Councilmember Duncan relative to how a Convention Center JPA would be structured and if Council would be taking the role of the Authority. Councilmember Duncan stated rehabilitation of the Selland Arena was way overdue and everyone acknowledged that, and President Boyajian reiterated he just wanted options for Council, as policy-makers, to review.

On motion of Acting President Castillo, seconded by Councilmember Perea, duly carried, RESOLVED, the City Manager directed to look into funding source and rehabilitation of the Fresno Convention Center and Selland Arena, by the following vote:

Ayes	:	Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	Calhoun
Absent	:	None

(10:00 A.M.) CONTINUED HEARING ON REZONING APPLICATION NO. R-02-051 AND ENVIRONMENTAL FINDINGS, FILED BY LARS ANDERSON AND ASSOCIATES, ON BEHALF OF SCOTT PETERS, PROPERTY LOCATED ON THE WEST SIDE OF N. WINERY AVENUE BETWEEN E. WASHINGTON AND E. MCKENZIE AVENUES (LOCATED IN DISTRICT 7)

1. CONSIDER AND ADOPT CATEGORICAL EXEMPTION FOR ENVIRONMENTAL ASSESSMENT NO. R-02-051
2. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-A TO R-1

President Boyajian announced the time had arrived to consider the issue and opened the hearing. Councilmember Perea thanked Council for continuing the matter twice; advised the first meeting with the developer and neighbors did not result in much and the developer, or representative, did not show up at the second scheduled meeting; and made a motion to deny the rezone.

Planning Manager Beach reviewed the issue as contained in the staff report as submitted, spoke to neighborhood concerns, and advised staff supported the rezone request.

Speaking to the issue were: Sarah and Leo Rojas, 4909 E. McKenzie, opposed; Barbara Hunt, 2475 S. Walnut, support; Leo Macias, 4939 E. McKenzie, opposed; and Dominga Bustamante, 4886 E. McKenzie, opposed.

Upon call, no one else wished to be heard and President Boyajian closed the public hearing.

Councilmember Calhoun stated in-fill and higher density projects was the only way the new general plan would work noting that was what was before Council, questioned if personal comments made about the developer could not be considered, with City Attorney Montoy responding, stated he did not feel the process had gone far enough and recommended Councilmember Perea continue to work with the developer and neighbors, and made a motion to delay the issue until such meetings take place. Mr. Beach responded to questions of Councilmember Dages relative to lot size and number of homes planned and Councilmember Dages stated he was appalled the developer ignored the neighbors and he would support Councilmember Perea's motion. Upon question it was noted two motions were on the floor with no second, whereupon

Councilmember Dages seconded the motion to deny **(4 - 0)**. Councilmember Duncan questioned if the matter could be brought back if it was rejected this date, with Ms. Montoy and Planning & Development Director Yovino responding and advising of options. Upon question, Councilmember Perea stated he would not amend his motion, whereupon Councilmember Duncan stated he would support the motion to deny due to the developer not working with neighbors and not showing up at the meeting. Councilmember Perea clarified he supported the general plan and in-fill housing but stated the issue was meetings were set up to review plans and the developer did not show up.

On motion of Councilmember Perea, seconded by Councilmember Dages, duly carried, RESOLVED, the Categorical Exemption for Environmental Assessment No. R-02-051 denied, and the above entitled Bill amending the Official Zone Map denied, by the following vote:

Ayes	:	Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	Calhoun
Absent	:	None

(10:15 A.M.) UPDATE BY CHAIRMAN ERIC JOHNSON ON THE CITY OF FRESNO RENAISSANCE EMPOWERMENT ZONE BOARD

Mr. Johnson gave an overview of the issue including the Board, their role, and the key goal areas the Board monitors; advised progress had been made in the Zone and explained; and stated the Board was dedicated to supporting the City living out its empowerment zone (EZ) vision and commitment. HECD Director Burkhardt gave a lengthy overview of the EZ plan and progress made to date, including job generation, using a map to illustrate.

Barbara Hunt, 2475 S. Walnut, spoke to the issue.

Lengthy discussion ensued with Mr. Burkhardt and City Manager Hobbs clarifying issues and/or responding to questions and/or concerns of Councilmembers Calhoun, Duncan, Perea, Dages and President Boyajian relative to jobs generated and hourly wages, minimum wage jobs not the kind to look for in EZ areas, meaning of "jobs in the pipeline", difference between enterprise zone and empowerment zone, how Fresno ranked in helping the economy/creating employment with the seven other designated cities, if staff communicates with the other cities and how communication is made, Council helping to make contacts with businesses in their respective districts, what it will take for Fresno to "really turn the corner", the recruitment schedule, concern with lack of a commitment/drive for a successful turn-around, type of new jobs generated, if there were any plans to work with the EDC or Chamber of Commerce **(5 - 0)**, role of the working groups, term of the EZ designation, request for list of jobs/companies, Councilmember Dages requesting he be allowed to participate in southeast's job fair, and incentives/give aways for businesses. President Boyajian and Councilmembers Sterling and Castillo extended their appreciation and commended everyone involved for all their hard work and commitment, with Councilmember Sterling requesting she be involved in west Fresno's job fair and informed of which businesses are not participating. There was no further discussion.

- - - -

(10:30 A.M.) DISCUSSION AND ACTION REGARDING VARIOUS PROPOSED FEES FOR SERVICES FOR THE POLICE AND FIRE DEPARTMENTS

1. * RESOLUTION - 403RD AMENDMENT TO MFS RES. 80-420 ADDING VARIOUS PROPOSED FEES FOR SERVICES FOR THE POLICE AND FIRE DEPARTMENTS
2. * BILL - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO RECOVERY OF COST AND PENALTIES INCURRED OR IMPOSED IN ENFORCEMENT OF THE MUNICIPAL CODE, STATE LAW OR NUISANCE ABATEMENT ACTIONS
3. * BILL - ADDING ARTICLE 20 TO CHAPTER 9 OF THE FRESNO MUNICIPAL CODE RELATING TO HAZARDOUS SPILLS EXPENSE RECOVERY **(CONSIDERED AGAIN LATER IN THE MEETING)**

President Boyajian and City Manager Hobbs briefly reviewed the background of the issue with Mr. Hobbs stating the question was "who pays and what is fair?", and advised the Mayor was recommending the first \$500,000 collected from the new fees go to much needed critical fire station improvements. Controller Quinto reviewed the issue as contained in the staff report as submitted, made clarifications on the disturbance response fee, the pawn shop transaction fee (to include all second-hand traders/dealers), the fire inspection fees and the hazardous response fee; and advised the new fees would generate \$2.5 million.

President Boyajian read into the record a letter from Doug Davidian, California Business Furnishings, in support of the new fees, a copy of which is on file in the office of the City Clerk. Speaking to the issue and expressing concerns/opposition to the new fees/pawn shop fee were: Stebbins Dean, CEO, Chamber of Commerce; Barbara Hunt, 2475 S. Walnut; Ralph Nunes, Federal Jewelry & Loan; an unidentified representative of Majestic Jewelry & Loan; Jerry Rust, Dean's Cons, 2325 E. McKinley; and Robert Verhoeff, representing Collateral Lenders and Secondhand Dealers Association, 44 Loma Linda Rd., San Rafael, CA.

Ms. Quinto responded briefly to questions of Councilmember Dages relative to whether support staff was figured into the disturbance response fee and how chronic abusers would be dealt with. Councilmember Dages spoke to the pawn shop fee noting there were 10 pawn shops, the proposed fee was extremely high, and going after 10 pawnshops out of 26,000 business licenses was unfair and made a motion to eliminate the pawn shop fee, which motion was seconded and later acted upon. Councilmember Dages requested each fee be voted upon separately.

Interim Fire Chief Aranaz, Deputy Police Chief Fifield, Ms. Quinto, Mr. Hobbs and City Attorney Montoy clarified issues and/or responded to questions of Councilmembers Dages and Duncan at length relative to the fire inspection fee **(6 - 0)**, arson investigation fee, why the graffiti abatement fee was not being recommended, definition of "small business", pawn shops being discriminated against and the working poor/poor being affected, fire station needs and the move to direct dollars to those needs, if meetings were held with the Chamber of Commerce, second hand dealers, police and fire, and citizens to

obtain their input on the proposed new fees, action on the fees being premature, comparisons with other cities' fees, concerns with and /specifics of the disturbance, fire inspection, pawn shop, CD Rom and fire inspections fees, reducing inspections and cost, if fire inspections were mandatory, and the hazardous materials fee and terrorists. Councilmember Duncan reiterated he felt the issue was not ready for action as justification and community input were needed, and stated he hoped all fees would be rejected this date and suggested staff go back and rework the fees and bring them back together with the annual Master Fee Schedule amendments.

Brief discussion ensued on continuing discussion on the issue, voting on the pawn shop motion, or continuing the matter to later and taking a lunch recess due to the lateness of the hour whereupon the following action was taken.

On motion of Councilmember Calhoun, seconded by President Boyajian, duly carried, RESOLVED, further discussion/action on the police and fire fee issue continued to after the lunch recess, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

- - - -

LUNCH RECESS - 1:06 P.M. - 2:37 P.M.

(2:30 P.M.) CONTINUED HEARING TO CONSIDER ENVIRONMENTAL IMPACT REPORT (EIR) NO. 10131, PLAN AMENDMENT NO. A-00-07, AND REZONING APPLICATION NO. R-00-14, FILED BY HALFERTY DEVELOPMENT, PROPERTY LOCATED ON THE SOUTHEAST CORNER OF N. BRAWLEY AND W. HERNDON AVENUES - SKY PARK MARKETPLACE SHOPPING CENTER (LOCATED IN DISTRICT 2)

1. RESOLUTION NO. 2003-42 - ADOPTING AND CERTIFYING FINAL EIR NO. 10131 AS RELATED TO THE PROPOSED SKY PARK MARKET PLACE SHOPPING CENTER

2. RESOLUTION NO. 2003-43 - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE BULLARD COMMUNITY PLAN

3. BILL NO. B-14 - ORDINANCE NO. 2003-14 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO C-2/UGM/cz

President Boyajian announced the time had arrived to consider the issue and opened the hearing.

Planner Braun reviewed the issue including history, background, the proposed project and EIR; explained specifics of the airport inner approach zone issue that came up since the EIR was issued, land use, and the traffic and market studies that were conducted **(7-0)**, all as contained in the staff report as submitted; and advised staff was recommending approval.

Applicant Jim Halferty, Halferty Development Co, Pasadena, CA, and Dirk Poeschel, 2310 Tulare Street, spoke to the project, the efforts that were undertaken including those beyond what the court ordered, and the studies/analysis conducted and conclusions, and requested approval stating Ralph's supermarket was ready to go.

Speaking in opposition to the project were: Jim Watt, Save Mart Supermarkets, 1800 Stanford Ave., Modesto, who also submitted written material; Georgiena Vivian, Vice President, RTK Technologies, 4746 W. Jennifer #103, who spoke to the traffic study and submitted material; Richard Domanski, Thompson Associates, 7567 Amador Valley Blvd., #310, Dublin, who spoke to the market profile report and submitted material; and Barbara Hunt, 2475 S. Walnut. All material submitted is on file in the office of the City Clerk.

Speaking in support of the project were: Joni Johnson, 3422 W. Los Altos, representing the Bullard Area Home Owners Association; and Woody Gregory, 7394 N. McCampbell Dr., Sierra Sky Park Property Owners Association.

Continued speakers were: James Catalano, Catalano's Supermarket, 7088 N. West, opposed; John Bezmalinovic, WG Enterprises, 7111 N. Fresno Street #200, opposed; Attorney Brett Jolley, 2291 W. March Lane, #B100, Stockton, opposed who also submitted material; Bill Scott, 1427 W. Alluvial, Bullard Implementation Committee member, support **(8 - 0)**; Tom Anderson, 7661 N. Pleasant, Shopping Center/Real Estate Broker/District 2 resident, opposed; and Attorney Patrick Green, support. All material submitted is on file in the office of the City Clerk.

Upon call, no one else wished to be heard and President Boyajian closed the hearing.

Planning Manager Haro addressed various issues brought up by project opponents, specifically why staff believed the EIR did not need to be re-circulated, the Caltrans' handbook, and substantial evidence in the record to support the findings and conclusions of the EIR, and responded to questions of Acting President Castillo relative to whether the EIR was required to address financial impacts on area businesses.

Councilmember Calhoun spoke to the issue stating a lot of work was done with the area residents and there was not any more that could be done; pointed out this was a large development beyond a grocery store; spoke to the EIR process and issuance; stated this was an issue of competition and he felt competition was healthy; and stated he felt the project was a good one for District 2 and for the community and made a motion to approve staff's recommendation, which motion was seconded and later acted upon.

Discussion ensued. Mr. Haro and Ms. Montoy responded to questions and/or comments of Acting President Castillo and Councilmember Sterling relative to whether the amount of land in the flight zone was why the EIR was originally ordered, the original basic challenge being the failure to analyze cumulative traffic impacts, if the Sierra Sky Park airport fell under FAA regulations and if the FAA was consulted on the project, and the EIR process and the project going under two EIRs. President Boyajian expressed his concerns stating (1) the basic issue was the law and changed circumstances because of the inner approach zone, (2) the EIR was flawed, (3) the development would impact Herndon Avenue, (4) cumulative impacts and the flight pattern were not analyzed, and (5) the EIR needed to be re-circulated, with an unidentified attorney and Ms. Vivian responding to his questions. Councilmember Sterling stated staff and the citizen groups were concerned about their community and had done their job and homework, and relative to competition stated she understood concerns but pointed out there was going to be over 700,000 people in the city of Fresno in the next few years. Upon question of Acting President Castillo, Ms. Montoy stated all CEQA requirements had been followed.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2003-42 certifying EIR No. 10131 hereby adopted as determined by Council after having applied its own independent judgment and analysis and based upon the finding noted in the resolution and attached Exhibits "A" through "E"; the above entitled Resolution No. 2003-43 hereby adopted, and the above entitled Bill No. B-14 approving R-00-13 to rezone the subject property from AE-5/UGM to C-2/EA/UGM adopted as Ordinance No. 2003-24, subject to the recordation of a Covenant guaranteeing the Conditions of Approval outlined in the staff report, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling
Noes	:	Boyajian
Absent	:	None

RECESS - 4:26 P.M. - 4:42 P.M.

(10:30 A.M.) CONTINUED DISCUSSION AND ACTION REGARDING VARIOUS PROPOSED FEES FOR SERVICES FOR THE POLICE AND FIRE DEPARTMENTS

1. * RESOLUTION - 403RD AMENDMENT TO MFS RES. 80-420 ADDING VARIOUS PROPOSED FEES FOR SERVICES FOR THE POLICE AND FIRE DEPARTMENTS
2. * BILL - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO RECOVERY OF COST AND PENALTIES INCURRED OR IMPOSED IN ENFORCEMENT OF THE MUNICIPAL CODE, STATE LAW OR NUISANCE ABATEMENT ACTIONS
3. * BILL - ADDING ARTICLE 20 TO CHAPTER 9 OF THE FRESNO MUNICIPAL CODE RELATING TO HAZARDOUS SPILLS EXPENSE RECOVERY **(CONTINUED FROM EARLIER)**

(9 - 0) Proceedings continued from earlier in the meeting. City Attorney Montoy clarified at issue this date were the amendments to the master fee schedule (MFS) and the two ordinance bills and not the \$500,000 for a specific purpose adding that issue could be scheduled on a future agenda for discussion.

Councilmember Calhoun spoke in support of the new fees stating Council asked for this, and stated this was a fairness issue and users needed to pay for services and elaborated. Councilmember Perea stated he felt the only justifiable fee was the disturbance response fee and he would not support the others, and along with President Boyajian and Councilmember Sterling commented on specific issues and/or presented questions relative to whether fees would be passed on to customers/tenants, if there was any guarantee the fees would go back to fire stations and not the general fund, if direction was given last year to direct the fees to fire station improvements, if the vehicle license fees (VLFs) were taken off the table, what the rush was in establishing these new fees, if direction could be given this date to apply fees to fire stations, the high cost for bingo and dance permits, if the 2% savings could be earmarked to finish the Roeding Business Park, returning any savings in utilities to the rate payers, the majority of pawn shops being located in District 3 and support for eliminating those fees, and specifics of the 9-1-1 hang-up, disturbance response, graffiti abatement, CD Rom duplicate, arson investigation, and the hazardous materials fees and if OSHA was involved, lack of community input on the proposed fees, small businesses and low income people being affected, need to consider the differences of council districts and resources not being divided equally, with Controller Quinto, City Manager Hobbs, Ms. Montoy, Mayor Chief of Staff White, Deputy Chief Fifield and Interim Fire Chief Aranaz responding to questions and/or clarifying issues.

Councilmember Duncan noted a lot was learned about Council's concerns on the fees, stated he felt the fees were a work in progress and were not yet ready for approval, advised he would be willing to facilitate a town hall type meeting to obtain citizen input, and made a motion to deny the balance of the new fees at this time adding he would work with city staff to find a win-win. The motion was seconded and acted upon after additional discussion. Acting President Castillo expressed his concern with how Council was told last year that utility fees needed to be raised and the rate payers were targeted before determining if the City was running "lean and mean" and elaborated, with Ms. Quinto responding to his questions relative to the \$1 million that was ultimately found and the solid waste bond. **(10 - 0)** President Boyajian stated there was no budget crisis or State issue when he initiated this issue emphasizing it was about the City getting its value back, and presented questions relative to legality of the pawn shop fee and regulating it, with Ms. Montoy and Deputy Chief Fifield responding. Brief discussion ensued with Ms. Hobbs stating he was hearing Council talk about the need to invest in economic development, the convention center, fire stations, and fixing up neighborhoods yet they opposed raising fees to eliminate subsidies; Ms. Quinto further clarifying the solid waste bond ratio issue; and Mayor Autry stating he would work with Council to insure the fees will go back to the fire department, added he did not see the need to delay the issue, confirmed his commitment to start with \$500,000 for fire station improvements and go from there, and clarified no essential services would be compromised contrary to what Acting President Castillo was stating. Acting President Castillo noted Operation Clean Up went to once-a-year at the request of Councilmember Dages without Council deliberation.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the proposed "pawn shop/second hand dealers" fee hereby eliminated, by the following vote:

Ayes	:	Castillo, Dages, Duncan, Perea, Sterling
Noes	:	Calhoun, Boyajian
Absent	:	None

Relative to the motion to deny the balance of the fees, Councilmember Sterling stated it was obvious something had to be done, clarified her concern with the fees was the impact on fixed income citizens, and stated further discussion and more time needed to be spent on the issue adding something would be done but just not this date.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution and Ordinance Bills denied, by the following vote:

Ayes	:	Castillo, Dages, Duncan, Perea, Sterling
Noes	:	Calhoun, Boyajian
Absent	:	None

(11:00 A.M.) CLOSED SESSION:

(A) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS:

1. AMALGAMATED TRANSIT UNION (ATU) UNIT 06
2. FRESNO CITY EMPLOYEES ASSOCIATION (FCEA)

(B) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION:
I.U.O.E. STATIONARY ENGINEERS LOCAL 39; UNFAIR LABOR PRACTICE CHARGES - CASE NOS. SA-CE-30-M AND SA-CE-21-M

(C) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:

1. STATIONARY ENGINEERS LOCAL 39 V. ROSALEEN RANDALL, RANDALL & ASSOCIATES, ET AL, CASE NO. CVI-F-20-5858 REC LJO
2. BOMBAY CORPORATION, ET AL. V. COF

The City Council met in closed session in Room 2125 at the hour of 5:45 p.m. to consider the above issues and adjourned thereafter.

- - - -

ADJOURNMENT

There being no further business to bring before the Council, the hour of 7:00 p.m. having arrived and hearing no objection, President Boyajian declared the meeting adjourned.

APPROVED on the 25th day of February, 2003.

Tom Boyajian, Council President

ATTEST: _____
Yolanda Salazar, Assistant City Clerk